

instruct the Customs Service to release any cash deposit or bond.

§ 353.18 Suspension of investigation.

(a) *Agreement to eliminate completely sales at less than foreign market value or to cease exports.* If the Secretary is satisfied that suspension is in the public interest, the Secretary may suspend an investigation at any time before the Secretary's final determination by accepting an agreement with exporters (producers and resellers) that account for substantially all of the merchandise:

(1) To eliminate completely sales at less than foreign market value with respect to the merchandise, effective on the date of suspension of investigation; or

(2) To cease exports of the merchandise not later than 180 days after the date of publication of the notice of suspension of investigation.

(b) *Agreement eliminating injurious effect.* (1) As provided in this paragraph and paragraph (b)(2) of this section, the Secretary may suspend an investigation at any time before the Secretary's final determination if the Secretary:

(i) Is satisfied that the proposed suspension is in the public interest;

(ii) Finds that extraordinary circumstances are present; and

(iii) Finds that the agreement will eliminate completely the injurious effect of the merchandise.

(2) The Secretary may suspend an investigation under paragraph (b)(1) of this section by accepting an agreement with exporters (producers and resellers) that account for substantially all of the merchandise, if the Secretary finds that:

(i) The agreement will prevent the suppression or undercutting by the merchandise of prices of like products produced in the United States; and

(ii) The agreement will ensure that, for each entry of each exporter, the dumping margin will not exceed 15 percent of the weighted-average dumping margin for that exporter stated in the Secretary's preliminary determination (or final determination in investigations continued under § 353.18(i)).

(c) *Definition of "substantially all."* For purposes of paragraphs (a) and (b)(2) of this section, exporters which

account for "substantially all" of the merchandise means exporters (producers and resellers), that have accounted for not less than 85 percent by value or volume of the merchandise during the period for which the Department is measuring dumping in the investigation or such other period that the Secretary considers representative.

(d) *Definition of "extraordinary circumstances."* For purposes of paragraph (b) of this section, "extraordinary circumstances" means circumstances in which (1) suspension of the investigation will be more beneficial to the industry than continuation of the investigation, and (2) there are a large number of transactions or adjustments under subpart D of this part, the issues raised are novel, or the number of producers and resellers is large.

(e) *Monitoring.* The Secretary will not accept an agreement unless effective monitoring of the agreement by the Secretary is practicable. In monitoring an agreement under paragraph (b) of this section, the Secretary will not be obliged to ascertain on a continuing basis the prices in the United States of the merchandise or of like products produced in the United States.

(f) *Exports not to increase during interim period.* The Secretary will not accept an agreement under paragraph (a)(2) of this section unless the agreement ensures that the quantity of the merchandise exported during the interim period set forth in the agreement does not exceed the quantity of the merchandise exported during a period of comparable duration that the Secretary considers representative.

(g) *Procedure for suspension of investigation.* (1) The exporters (producers and resellers) shall:

(i) Submit to the Secretary a proposed agreement not later than 45 days before the scheduled date for the Secretary's final determination under § 353.20; and

(ii) Serve a copy of an agreement preliminarily accepted by the Secretary on other parties to the proceeding not later than the day following the Secretary's preliminary acceptance.

(2) The Secretary will:

(i) Not later than 30 days before the date the Secretary suspends the investigation, notify all parties to the proceeding of the proposed suspension and provide to the petitioner a copy of the agreement preliminarily accepted by the Secretary (the agreement shall contain the procedures for monitoring compliance and a statement of the compatibility of the agreement with the requirements of this section); and

(ii) Consult with the petitioner concerning the proposed suspension.

(3) The Secretary will provide all interested parties and United States government agencies an opportunity to submit, not later than 10 days before the scheduled date for the Secretary's final determination, written argument and factual information concerning the proposed suspension.

(h) *Acceptance of agreement.* (1) If the Secretary accepts an agreement to suspend an investigation, the Secretary will publish in the FEDERAL REGISTER notice of "Suspension of Antidumping Duty Investigation," including the text of the agreement. If the Secretary has not already published notice of affirmative preliminary determination, the Secretary will include that notice. In accepting an agreement, the Secretary may rely on factual or legal conclusions the Secretary reached in or after the affirmative preliminary determination.

(2) If the Secretary suspends an investigation based on an agreement under paragraph (a) of this section, the Secretary will not order the suspension of liquidation of entries of the merchandise. If the Secretary previously ordered suspension of liquidation, the Secretary will order the suspension of liquidation ended on the effective date of notice of suspension of investigation and will instruct the Customs Service to release any cash deposit or bond.

(3) If the Secretary suspends an investigation based on an agreement under paragraph (b) of this section, the Secretary will order the suspension of liquidation to continue or to begin, as appropriate. The suspension of liquidation will not end until the Commission completes any requested review, under section 734(h) of the Act, of the agreement. If the Commission receives no request for review within 20 days after

the date of publication of the notice of suspension of investigation, the Secretary will order the suspension of liquidation ended on the 21st day after the date of publication, and will instruct the Customs Service to release any cash deposit or bond.

(4) If the Commission undertakes a review of an agreement under section 734(h) of the Act and determines that the agreement will not eliminate the injurious effect, the Secretary will resume the investigation on the date of publication of the Commission's determination as if the Secretary's affirmative preliminary determination had been made on that date. If the Commission determines that the agreement will eliminate the injurious effect, the Secretary will continue the suspension of investigation, order the suspension of liquidation ended on the date of publication of the Commission's determination, and instruct the Customs Service to release any cash deposit or bond.

(i) *Continuation of investigation.*

(1) Not later than 20 days after the date of publication of the notice of suspension of investigation, an exporter or exporters accounting for a significant proportion of exports of the merchandise or an interested party, as defined in paragraph (k)(3), (k)(4), (k)(5), or (k)(6) of § 353.2, may request in writing that the Secretary continue the investigation. The party shall simultaneously file a request with the Commission to continue its investigation.

(2) Upon receiving the request, the Secretary and the Commission will continue the investigation.

(i) If the Secretary and the Commission make affirmative final determinations, the suspension agreement will remain in effect in accordance with the factual and legal conclusions in the Secretary's final determination. This paragraph does not affect the provisions of paragraph (h) of this section regarding suspension of liquidation.

(ii) If the Secretary or the Commission makes a negative final determination, the agreement shall have no force or effect.

(j) *Merchandise imported in excess of allowed quantity.* (1) The Secretary may

instruct the Customs Service not to accept entries, or withdrawals from warehouse, for consumption of the merchandise in excess of any quantity allowed by paragraph (f) or by an agreement under paragraph (a) of this section.

(2) Imports in excess of the quantity allowed by paragraph (f) or by an agreement under paragraph (a) of this section may be exported or destroyed under Customs service supervision.

§ 353.19 Violation of agreement.

(a) *Immediate determination.* If the Secretary determines that a signatory exporter has violated a suspension agreement, the Secretary, without right of comment, will:

(1) Order the suspension of liquidation of all entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (i) 90 days before the date of publication of the notice of cancellation of agreement or (ii) the date of first entry, or withdrawal from warehouse, for consumption of the merchandise the sale or export of which was in violation of the agreement;

(2) If the investigation was not completed under § 353.18(i), resume the investigation as if the Secretary made an affirmative preliminary determination on the date of publication of the notice of cancellation and impose provisional measures by instructing the Customs Service to require for each entry of the merchandise suspended under paragraph (a)(1) of this section a cash deposit or bond equal to the estimated weighted-average dumping margin determined in the affirmative preliminary determination;

(3) If the investigation was completed under § 353.18(i), issue an antidumping duty order for all entries subject to suspension of liquidation under paragraph (a)(1) of this section and instruct the Customs Service to require for each entry of the merchandise suspended under this paragraph a cash deposit equal to the estimated weighted-average dumping margin determined in the affirmative final determination;

(4) Notify all persons who are or were parties to the proceeding, the Commission, and if the Secretary determines

that the violation was intentional, the Commissioner of Customs; and

(5) Publish in the FEDERAL REGISTER notice of "Antidumping Duty Order (Resumption of Antidumping Duty Investigation); Cancellation of Suspension Agreement."

(b) *Determination after notice and comment.* (1) If the Secretary has reason to believe that a signatory exporter has violated an agreement or that an agreement no longer meets the requirements of section 734(d) of the Act, but does not have sufficient information to take action under paragraph (a) of this section, the Secretary will publish in the FEDERAL REGISTER notice of "Invitation for Comment on Antidumping Duty Suspension Agreement."

(2) After publication of the notice inviting comment and after consideration of comments received the Secretary will:

(i) If the Secretary determines that any signatory exporter has violated the agreement, take appropriate action as described in paragraphs (a)(1) through (a)(5) of this section; or

(ii) If the Secretary determines that the agreement no longer meets the requirements of section 734(d) of the Act:

(A) Take appropriate action as described in paragraphs (a)(1) through (a)(5) of this section, except that, for paragraph (a)(1)(ii) of this section, the date shall be the date of first entry, or withdrawal from warehouse, for consumption of the merchandise the sale or export of which does not meet the requirements of section 734(d) of the Act;

(B) Continue the suspension of investigation by accepting a revised suspension agreement under § 353.18(a) (whether or not the Secretary accepted the original agreement under that paragraph) that, at the time the Secretary accepts the revised agreement, meets the applicable requirements of section 734(d) of the Act, and publish in the FEDERAL REGISTER notice of "Revision of Agreement Suspending Antidumping Duty Investigation;" or

(C) Continue the suspension of investigation by accepting a revised suspension agreement under § 353.18(b) (whether or not the Secretary accepted the original agreement under that paragraph) that, at the time the Secretary